

LANDMAN CORSI BALLAINE & FORD P.C.

A NEW YORK PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

WILLIAM G. BALLAINE

MEMBER

TEL: (212) 238-4800

EMAIL: wballaine@lcbf.com

120 BROADWAY

27TH FLOOR

NEW YORK, NEW YORK 10271

TELEPHONE (212) 238-4800

FACSIMILE (212) 238-4848

www.lcbf.com

One Gateway Center

4th Floor

Newark, NJ 07102

Tel: (973) 623-2700

One Penn Center

1617 JFK Boulevard, Suite 955

Philadelphia, PA 19103

Tel: (215) 561-8540

September 22, 2017

Via ECF

Honorable J. Paul Oetken
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Dendy and Polk v. National Railroad Passenger Corp.*
Civil Action No. 14-8381 (JPO) (JLC)

Dear Judge Oetken:

This letter is submitted on behalf of defendant National Railroad Passenger Corporation (“Amtrak” or “Defendant”) to provide a status report in compliance with Your Honor’s Endorsed Order entered September 8, 2017 on the issue of attorney’s fees. Dkt 78.

The relevant history regarding the issue is as follows. On April 27, 2017, the Court denied Defendant’s post-trial motion, and directed the parties to confer regarding any requested attorney’s fees, cost and expenses, and absent agreement, directed Plaintiffs to file a motion for fees, costs and expenses on or before June 1, 2017. Dkt 72, at 5. In late May, at Plaintiffs’ request, that deadline was extended until June 15, 2017. See Dkt 73 and 74. No motion was filed. Nor did Plaintiffs request a further extension of the Court’s deadline.

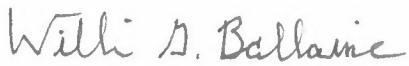
On August 17, 2017, the Court directed the parties to file a status report by September 1, 2017. Dkt 75. On August 31, 2017, Amtrak filed a report, advising that Plaintiff’s counsel has never provided Amtrak with any information bearing on Plaintiffs’ fees, costs and expenses, despite our repeated requests. Dkt 76. The next day, Plaintiff’s counsel filed a letter containing counsel’s explanation for his failure to comply with the Court’s April 27, 2017 direction and requested “the Court’s indulgence in allowing me two additional weeks” to “resolve the fee issue directly with defense counsel or alternatively to have a fee application submitted to the court.” Dkt 78. That same day, September 1, 2017, the undersigned sent Plaintiff’s counsel an email – copy attached – asking him to contact either the undersigned or Mark Landman the next week to see if the fees issue could be resolved without motion practice. Plaintiff’s counsel never called.

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On September 8, 2017 Your Honor generously granted Plaintiff an additional two week extension, until September 22, 2017 (one more week than counsel requested) and asked for a status report by that date. Dkt 78. Amtrak's current status report is that as of the time of this letter, Amtrak's counsel has not received any form of communication from Plaintiff aimed at complying with the Court's original April 27, 2017 Order and its most recent Order.

Respectfully,



William G. Ballaine

WGB/lae

cc: Marc Wietzke, Esq. (via e-mail)
Mark S. Landman, Esq.

William Ballaine

From: William Ballaine
Sent: Friday, September 01, 2017 4:09 PM
To: 'mwietzke@felaattorney.com'
Cc: Mark Landman
Subject: DENDY V. AMTRAK -- attorney's fees issue

Marc:

Sorry to hear about your mother. Hope you can get matters worked out satisfactorily.

Please contact either Mark or me next week, after the long weekend, to see if this can be resolved without motion practice.

Bill